

Families United for Prison Reform

August 4, 2007

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Office of the Attorney General, Jerry Brown
State of California
ATTN: Initiative Coordinator
1300 I Street
Sacramento, CA 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Galvin:

Enclosed please find a draft of the proposed statewide initiative ballot measure to your office that we are referring to as the "Prisoner Rights Act of 2008". We request that you prepare a title and summary of the measure as provided by law.

Included with this submission as Appendix "A" is the required proponent affidavit signed by the proponent of this measure as pursuant to section 9608 of the California Elections Code. This Appendix also contains the address as registered to vote. We have also included a check for \$200 for the filing fee.

Thank you for your attention. If you have any questions, please contact me at the address and phone number supplied in Appendix A.

Respectfully,

Ann Smith

August 4, 2007
Date

Enclosures

THE PRISONER RIGHTS ACT OF 2008**INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS****TO THE HONORABLE SECRETARY OF THE STATE OF CALIFORNIA:**

We, the undersigned, registered qualified voters of the State of California, residents of the County (or City and County) described on the signature page of this petition section, hereby propose amendments to Penal Code Sections 2600 and 2601, relating to the rights of prisoners currently incarcerated in the State of California, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding primary or general election or at any special statewide election held prior to that primary or general election or as otherwise provided by law. The proposed statutory initiative reads as follows:

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**SECTION 1. TITLE**

This initiative shall be known as and shall be cited as The Prisoner Rights Act of 2008.

SECTION 2. FINDINGS AND DECLARATIONS

The People of the State of California do hereby find and declare that:

(a) There is a direct correlation between prisoners who are functionally literate and those who successfully reintegrate into society upon their release [Penal Code §2053];

(b) There is a direct correlation between functionally literate prisoners and a corresponding reduction in the recidivism rate [Penal Code §2053];

(c) It is in the interest of public safety to provide as much educational, vocational, family and personal counseling as is necessary to assist parolees in making their transition from incarceration to freedom [Penal Code §3074];

(d) Maintaining a prisoner's family and community relationships and enhancing visitor services is an effective correctional technique which reduces recidivism and discourages violent prisoner activity [Penal Code §6350];

(e) It is important that the California Department of Corrections & Rehabilitation support and encourage all prisoners in any sincere attempt to transform themselves into upstanding, law-abiding, contributing members of society;

(f) Nothing productive can come from a system that uses discipline and punishment as the foundation for correcting the behavior of prisoners; furthermore, an absence of "rights" or incentives reinforces the erroneous view that such systems are viable.

SECTION 3. PURPOSES

The People do hereby enact this measure to:

(a) Provide prisoners with a comprehensive set of "rights" in order to ensure that the larger goal of the rehabilitation of the masses of prisoners be recognized and encouraged by the California Department of Corrections & Rehabilitation;

(b) Provide prison officials with a set of guidelines and incentives for programming which places the emphasis not on the punishment aspect of incarceration but on the rehabilitation aspect instead;

SECTION 4. AMENDMENTS TO SECTION 2600 OF THE PENAL CODE

(This format presents struck wording in [strikeout] and new wording in *[italics]*.)

Section 2600 of the California Penal Code is hereby amended to read:

§ 2600. Rights lost during imprisonment.

A person sentenced to imprisonment in a state prison may during that period of confinement be deprived of such rights, and only such rights, as ~~is reasonably related to legitimate penological interests, are denied them by the State or Federal Constitution or by the California Penal Code.~~

Nothing in this section shall be construed to permit the involuntary administration of psychotropic medication unless the process specified in the permanent injunction, dated October 31, 1986, in the matter of Keyhea v. Rushen, 178 Cal. App. 3d 526, has been followed. The judicial hearing for the authorization for the involuntary administration of psychotropic medication provided for in Part III of the injunction shall be conducted by an administrative law judge. The hearing may, at the direction of the director, be conducted at the facility where the inmate is located.

Nothing in this section shall be construed to overturn the decision in Thor v. Superior Court, 5 Cal. 4th 725.

SECTION 5. AMENDMENTS TO SECTION 2601 OF THE PENAL CODE

(This format presents struck wording in [strikeout] and new wording in *[italics]*.)

Section 2601 of the California Penal Code is hereby amended to read:

§ 2601. Guaranteed rights. Subject only to the provisions of that section, each person described in Section 2600 shall have the following civil rights:

(a) Except as provided in Section 2225 of the Civil Code, to inherit, own, sell, or convey real or personal property, including all written and artistic material produced or created by the person during the period of imprisonment. However, to the extent authorized in Section 2600, the Department of Corrections *and Rehabilitation* may restrict or prohibit sales or conveyances that are made for business purposes.

(b) To correspond *or meet*, confidentially, with any member of the State Bar or holder of public office *or any member of the news media*, provided that the prison authorities may *(with respect to correspondence)*, open and inspect incoming mail *in the prisoners presence* to search for contraband;

(c)(1) To purchase, receive, and read any and all newspapers, periodicals, and books accepted for distribution by the United States Post Office. Pursuant to this section, prison authorities may exclude any of the following matter:

(A) ~~Obscene publications or writings, and mail containing information concerning where, how, or from whom this matter may be obtained.~~

(B)(A) Any matter of a character tending to incite murder, arson, riot, violent racism, or any other form of violence.

(C)(B) Any matter concerning gambling or a lottery.

(2) Nothing in this section shall be construed as limiting the right of prison authorities to do the following:

(A) Open and inspect any and all packages received by an inmate.

(B) Establish reasonable restrictions as to the number of newspapers, magazines, and books that the inmate may have in his or her cell or elsewhere in the prison at one time.

(d) To initiate civil actions, subject to a three dollar (\$3) filing fee to be collected by the Department of Corrections *and Rehabilitation*, in addition to any other filing fee authorized by law, and subject to Title 3a (commencing with Section 391) of the Code of Civil Procedure.

(e) To marry.

(f) To create a power of appointment.

(g) To make a will.

(h) To receive all benefits provided for in Sections 3370 and 3371 of the Labor Code and in Section 5069.

(i) To receive a minimum of fifty-six (56) hours of visiting on a weekly basis (excluding all nationally recognized holidays).

(j) To receive contact visits (except for prisoners who have been assigned to an administrative segregation/security housing unit or reception center; those prisoners are entitled to non-contact visits).

(k) To receive overnight family visits (except for prisoners who have been assigned to an administrative segregation/security housing unit or reception center).

(l) To receive a minimum of twenty-five (25) hours of outdoor exercise, recreation and/or entertainment activities on a weekly basis if unemployed and a minimum of twelve (12) hours if employed;

(m) To receive: (1) personal packages on a quarterly basis (either directly from family/friends or an approved vendor); (2) regular telephone calls (at least four per month, limited only by telephone capability); (3) monthly canteen draws in the amounts currently authorized by the California Code of Regulations, Title 15; (4) access to a hobby, handicraft and/or music program; (5) special purchases of televisions, radios (including "boom-boxes" if the prisoner consents to having his/her speaker wires cut), television/radio combinations), compact discs/cassette tapes (all of which must be purchased from an approved vendor);

(n) To view any movie rated "PG-13", "R", or "NC-17" (except that wards of the California Youth Authority may not be allowed to view any movie rated "R" or "NC-17").

SECTION 6. SEVERABILITY

If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications which can reasonably be given effect in the absence of the invalid provision or application in order to effectuate the purposes of this Act.

SECTION 7. CONFLICTING BALLOT MEASURES

In the event that this measure or measures relating to the rights of California prisoners is approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than ~~any other such measure or measures, this measure shall control in its entirety and said other measure or~~ measures shall be rendered void and without any legal effect. If this measure is approved but does not receive a greater number of affirmative votes than said other measure or measures, this measure shall take effect to the extent permitted by law.

SECTION 8. EFFECTIVE DATE

This Act shall become effective immediately upon its approval by the voters.

SECTION 9. AMENDMENT

The legislature shall not amend or repeal this initiative statute by another statute without the approval of the electors pursuant to Article II, Section 10, subdivision(c) of the California Constitution.